

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

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AUG 27 2014

U.S. DISTRICT COURT
MID. DIST. TENN.

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

Ocenture,

Defendants.

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CIVIL ACTION NO.:

Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Ocenture is a company operating from 6440 Southpoint Parkway, ste 300 Jacksonville, FL 32216 and is a Florida corporation with a registered agent of Corporation Service Company, 1201 Hays Street Tallahassee, FL 32301

Jurisdiction

3. Jurisdiction of this court arises as the acts happened in this county.
4. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

5. In 2014, the Plaintiff at least one automated phone calls with a pre-recorded message to the Plaintiff's cell phone which informed the Plaintiff to that the Plaintiff could get a free \$100 gift card and \$50 restaurant gift card for trying a promotional trial of ID Smarter. The Plaintiff was informed that the website for the product is www.IDsmarter.com.
6. Upon further investigation, IDsmarter.com is identified as an Ocenture product and is listed on the website www.idsmarter.com and the links at the bottom identify the site as owned and controlled by Ocenture, LLC.
7. As these calls were made on behalf and for the benefit of Ocenture LLC, selling Ocenture products on a website owned and controlled by Ocenture LLC, both the entity placing the illegal calls and Ocenture are liable for the TCPA violations. Ocenture is liable under the broad principles of agency, to include apparent authority, formal authority, and ratification.
8. These phone calls violated the TCPA in two ways, first by having a pre-recorded message, and second by the automated nature of them. Additionally, the calls violated the TCPA as the pre-recorded messages didn't contain the required identification info stipulated in the TCPA, to include the name, address, and phone number of the entity for which the calls are being placed.
9. All of the parties are jointly, severally, and individually to the Plaintiff for the statutory and punitive damages requested.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

10. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
11. The foregoing actions by the Defendants constitute multiple violations of the TCPA. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the identification, address, and phone number of entity for which the calls are being placed as required under the TCPA.

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

12. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
13. The foregoing actions by the Defendants constitute multiple violations of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's Cell phone.

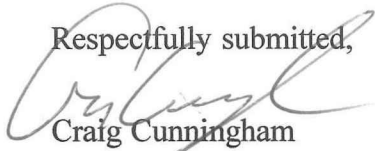
PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$3000 for each phone call.

- C. Pre-judgment interest from the date of the phone calls.
- D. Punitive damages for all claims in the amount of \$25,000
- E. Attorney's fees for bringing this action; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,



Craig Cunningham

Plaintiff, Pro-se

Mailing address:

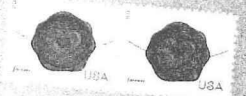
5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

August 23rd, 2014

5543 Edmondson Pike
Ste 248 ~~EE~~
Nashville, TN 37211



US District Court
ATTN: Clerk
801 Broadway
Nashville TN 37203

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